

IN THE HIGH COURT OF MALAYA AT KUALA LUMPUR

Tuesday the 18th day of November 1953/27th Kartika 1880

Present.

The Honourable Mr. Justice M.S. Menon

A n d

* The Hon'ble Mr. Justice C.A. Vaidialingen

A. S. No. 54/1954

(O.S. No. 50 of 1114 on the file of Quilon Dt. Court)

Appellants - Defendants 11 & 12:-

1. Meelacantan Nedr Marayanan Nair of Puthen Veedu, Elavukattu Muri, Palamel Pakuthy, Navelikara Taluk
2. Lakshmi Anna Bharathi Nair of do. do.

By Advocate Shri. S. Marayanan Petti

Respondents - Pliffs & Defts 1, 16, 16 to 26, 28 & L.R. of deceased 27th Deft.:-

1. Sankaran Govindan of Alkanattu Thekkokkara Veedu, Erumakuzhi Muri, Palamel Pakuthy, Navelikara Taluk
2. Kunju Panna Parvathi of do. do. (died)
3. Parvathi Marayandi of do. do.
4. Govindan Kesavan of do. do.
5. Sankaran Sankaran of do. residing at Vashappalli Kizhakkethil, Co. Muri (died)
6. Kaliamma Marayandi of Karijanattathu Puthen Veedu, Panayil Muriyil, do. Pakuthy
7. Parasuswaras Meelacantan of do. do.
8. Parvathy Kochikku of do. do.
9. Raman Pillai Raghavan Pillai of do.
10. Kochikku Bhargavi of do. do.
11. Raman Pillai Sankara Pillai of do.
12. Raman Pillai Bhargavan Pillai of do.
13. Raman Pillai Ramakrishnan Pillai of do. (died)
14. Raghavan Pillai Sivarasan Pillai of do.
15. Chirutha Thevi of Tharayil Vashappalli Kizhakkethil, Erumakuzhi Muri (died)
16. Sankaran Kunju Pillai written as Kunjeon of do.
17. Janaki Anna Gomana Anna of do. (minor)
18. Janaki Anna Sankaran of do. (minor)
19. Raman nephew of Kunju Pillai do do. (minor)
20. Kunju Pillai Sukumaran of do. (minor)

5th Respt. died - None to be impleaded in the place of the deceased
5th Respt. vide order of C.A. 1842/54 dated 12-11-54.

(P.T.O.)

2nd Respt. died - Respts. 1, 3 & 4 are legal representatives of the deceased 2nd respt. vide order on C.M.P. 939/56 dated 11-9-56.

Minor 17 to 20 are represented by the father and guardian Kochukrishna Kurup, Kalalil Puthen veedu, Erumakuzhi Muri, Palameli village, vide C.M.P. 1237/55.

1st Respt. By Advocate Mr. K. V. Marayanan Nair

7th Respt. By Advocate Mr. M. P. Ramakrishna Pillai &
Mr. T. R. Ashutha Varrier

16th Respt. By Advocate Mr. M. Krishnan Nair

17th to 20th Respt. By Mr. A. Velayudhan Nair

This Appeal having been heard on 18-11-1958, the court on the same day delivered the following:-

JUDGMENT

This is an appeal by the defendants 11 and 12, the legal representatives of the deceased second defendant, against the decree of the lower court negating their rights to get the share of the second defendant in the suit properties.

It is not necessary for us to go in any very great detail as we have only to find out whether the second defendant has a separate share as was entitled to a share in his individual right, which could be passed on to his legal representatives, viz., the appellants.

During the arguments of this case before us, it has been brought to our notice that the second defendant died long before the filing of the written statement by the 1st defendant. If that is so, the rights of the 2nd defendant in the properties had already lapsed to the 1st defendant and there was nothing that the appellants could get as representatives of the second defendant, because he was not entitled to any separate share as such from the property. The second defendant died on 28th March 1113 and the written statement of 1st defendant has been filed on 8-12-1114. In this view it is unnecessary for us to consider the argument of Mr. Potti, as to whether the 1st defendant had declared his intention to separate in his written statement filed.

This appeal fails and is dismissed; but without any order as to costs.

18-11-58

Sd/- M. S. Menon, Judge

Sd/- C. A. Vaidialingam, Judge.

/True copy/

J. Somasundaram

Asst. Registrar.

Comptroller
of Accounts